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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|-----------------------------|---|------------------------------|
| ----- | X | |
| MOISES MENDEZ, | : | |
| | : | |
| Plaintiff, | : | 08-CIV-4967 (CM) (KNF) |
| | : | |
| v. | : | <u>ECF CASE</u> |
| | : | |
| STARWOOD HOTELS AND RESORTS | : | <u>DECLARATION OF</u> |
| WORLDWIDE, INC., | : | <u>MICHAEL STARR</u> |
| | : | |
| Defendant. | : | |
| | : | |
| ----- | X | |

MICHAEL STARR, declares as follows:

1. I am a member of the firm of Hogan & Hartson LLP, which is counsel for Defendant in the above-referenced action. I submit this declaration in support of Defendant's motion to dismiss pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure and to compel arbitration pursuant to the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq.

2. I am informed by my client that Plaintiff, Moises Mendez, was initially hired by Starwood Hotels and Resorts Worldwide, Inc. ("Starwood") in June 2003 and, subsequently, in April 2004, assigned the position of "Baker." My review of the personnel records maintained by Starwood for The Westin New York at Times Square hotel (the "Westin Hotel") reveals that at the time of this assignment, and in connection therewith, Plaintiff's hourly rate of compensation

was increased to \$20.21 per hour from \$13.76 per hour, which is what he was paid in his prior position as a “Food Runner.”

3. In connection with Plaintiff’s assignment to the Baker position, he was presented with a letter dated April 7, 2004 from Nancy Kiska, Director of Human Resources, for the Westin Hotel, which he countersigned on April 13, 2004 and by so doing, “ACCEPTED AND AGREED TO” the terms of said letter. (A true and correct copy of the April 7, 2004 letter from Nancy Kiska to Moises Mendez, as countersigned by Moises Mendez on “4/13/04,” is annexed as Exhibit A (the “*April 7 Letter*”).)

4. As is pertinent to Defendant’s motion to dismiss, the April 7 Letter reads as follows:

“*Resolution of Disputes:* In the event of any disputes with respect to your employment by Starwood, you and the Company agree that the same will be resolved through binding arbitration in the jurisdiction of the Company’s headquarters and in accordance with the rules and procedures of the American Arbitration Association.” (Emphasis in original.)

WHEREFORE, the Defendant respectfully requests that Defendant’s motion to dismiss be granted in its entirety.

Dated: New York, New York
June 27, 2008

/s/
MICHAEL STARR

EXHIBIT A



THE WESTIN NEW YORK
AT TIMES SQUARE

April 7, 2004

Moises Mendez

Dear Moises:

The following will outline the specifics of your new assignment:

Start Date: Your position with The Westin New York at Times Square will begin on **Sunday, April 4, 2004.**

Position: You are offered the position of **Baker**, performing such duties as assigned, and shall devote your full time and attention to the affairs of Starwood and to your duties in this capacity.

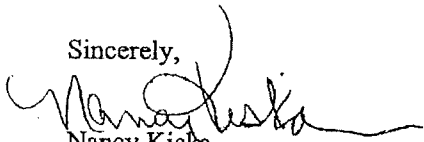
Base Salary: Your initial wage will be **\$20.21**, and will be subject to the appropriate withholdings for FICA, federal taxes and Medicare.

Employment at Will: Your employment with The Westin New York at Times Square is voluntary, at will, and you are free to resign from your position at any time. In turn, Starwood has the right to terminate the employment of any associate for any reason, with or without cause.

Resolution of Disputes: In the event of any disputes with respect to your employment by Starwood, you and the company agree that the same shall be resolved through binding arbitration in the jurisdiction of the company's headquarters and in accordance with the rules and procedures of the American Arbitration Association.

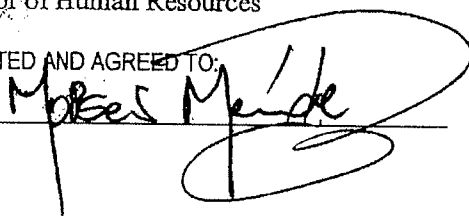
Good luck.

Sincerely,


Nancy Kiska
Director of Human Resources

ACCEPTED AND AGREED TO:

Sign



Date

4/13/04